

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION

JASON JORDAN; ALYSSA JORDAN,
INDIVIDUALLY AND ON BEHALF OF
THE ESTATE OF UNBORN BABY JORDAN,
DECEASED AND ON BEHALF OF ALL OF
THE HEIRS AT LAW AND WRONGFUL
DEATH BENEFICIARIES OF UNBORN
BABY JORDAN, DECEASED;
AND CHRISTOPHER SOUKUP

PLAINTIFFS

VS.

CIVIL ACTION NO: 1:13cv195 LG-JMR

PREMIER ENTERTAINMENT BILOXI,
LLC d/b/a HARD ROCK HOTEL & CASINO;
THE CITY OF BILOXI, MISSISSIPPI;
DOE DEFENDANT ONE; JOSHUA HAMILTON,
IN HIS OFFICIAL AND INDIVIDUAL
CAPACITIES; DOE DEFENDANT THREE;
DOE DEFENDANT FOUR; DOE DEFENDANT
FIVE AND DOE DEFENDANTS 6-10

DEFENDANTS

DEPOSITION OF JOHN MILLER
30(B)(6) REPRESENTATIVE
CITY OF BILOXI

Taken at 759 Vieux Marche Mall, Biloxi,
Mississippi, Thursday, April 3, 2013,
beginning at 9:10 a.m.

REPORTED BY:
JENNIFER RAY, RPR
Merrill Legal Solutions

1 APPEARANCES:

2 REPRESENTING PLAINTIFFS:

3 THOMAS J. BELLINDER, ESQUIRE
Martin & Bellinder
4 351 Edgewood Terrace Drive
Jackson, Mississippi 39206

5
6 REPRESENTING HARD ROCK HOTEL & CASINO BILOXI:

DAVID W. STEWART, ESQUIRE
7 COPELAND COOK TAYLOR & BUSH, P.A.
2781 C.T. Switzer Sr. Drive, Suite 200
8 Biloxi, Mississippi 39531

9 REPRESENTING THE CITY OF BILOXI:

10 TERE R. STEEL, ESQUIRE
Page, Mannino, Peresich & McDermott, PLLC
11 759 Vieux Marche Mall
Biloxi, Mississippi 39530

12
13 REPRESENTING JOSHUA HAMILTON:

RUSSELL S. GILL, ESQUIRE
14 Russell S. Gill, PLLC
638 Howard Avenue
15 Biloxi, Mississippi 39530

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

TABLE OF CONTENTS

WITNESS: JOHN MILLER PAGE:

Examination by Mr. Bellinder -----	14
Examination by Mr. Stewart -----	89
Examination by Mr. Gill -----	90
Examination by Ms. Steel -----	91
Reporter's Certificate -----	93
Errata Sheet -----	94

EXHIBITS

Exhibit 1: City of Biloxi's Response and Objections to Rule 30(b)(6) Notice and Rule 30(b)(2) Request for Production of Documents Propounded By Plaintiffs -----	5
Exhibit 2: Biloxi Department of Police Law Enforcement Policies and Procedures ---	51
Exhibit 3: Affidavit Withdrawal Penalties Form ---	73

STIPULATION

It is hereby stipulated and agreed by and between the parties hereto, through their respective attorneys of record, that this deposition may be taken at the time and place hereinbefore set forth, by Jennifer Ray, RPR, Court Reporter and Notary Public, pursuant to the Federal Rules of Civil Procedure, as amended;

That the formality of READING AND SIGNING is specifically NOT WAIVED;

That all objections, except as to the form of the questions and the responsiveness of the answers, are reserved until such time as this deposition, or any part thereof, may be used or is sought to be used in evidence.

1 JOHN MILLER,
2 the witness, having been produced and
3 first duly sworn, testified as follows,
4 to-wit:

5 - - -

6 MS. STEEL: I'm Tere Steel for the
7 City of Biloxi. For the record, the City of
8 Biloxi has served its response and objections
9 to the 30(b)(6) notice and the 30(b)(2)
10 request for production of documents propounded
11 by the plaintiffs, and I'm submitting those to
12 be made Exhibit 1 to the deposition.

13 MR. BELLINDER: Now, are we
14 continuing the exhibits from the other day, or
15 do you just want to start over with the City?

16 MS. STEEL: It's up to y'all.

17 - - -

18 (Off the record.)

19 (Exhibit 1 was marked.)

20 MS. STEEL: Plaintiff's counsel and
21 I have conferred, and many, if not all, of the
22 objections have been resolved for purposes of
23 this deposition. It's my understanding that
24 the following agreements have been reached:

25 On Topic 2, the topic is limited to

1 the identification of persons with direct
2 knowledge of the Jordan and Soukup incidents
3 sued on and any supervisory officials with
4 indirect knowledge.

5 On Topic 3, the preparation and
6 designation of the City's representative is
7 limited to the documents in possession of the
8 City of Biloxi that were produced during
9 discovery in this lawsuit. If other documents
10 are submitted to the 30(b)(6) representative
11 during the deposition, a statement will be
12 made that the document is not within the
13 City's possession and the document is not
14 considered information known to the City.

15 MR. BELLINDER: And we will not
16 object -- from the plaintiffs' side, we will
17 not object as to the City having produced
18 insufficient or improper designees per
19 today --

20 MS. STEEL: Right.

21 MR. BELLINDER: -- in the event that
22 something does come up that is --

23 MS. STEEL: Very good.

24 Now, in relation to Topic 3, we
25 raised the governmental privilege objection.

1 It's preserved as to the documents that are in
2 the custody of the City that would be
3 protected by it. I'm gonna talk a little bit
4 more about that with regard to Topics 20
5 through 22.

6 Topic 5 is withdrawn.

7 Topic 6, 7, 9, 10, 11 and 12 are
8 outside the City of Biloxi's knowledge and,
9 therefore, no representative has been
10 designated to testify about those subjects,
11 and that is because the Hard Rock is a private
12 business and not owned or operated by the
13 City.

14 Topic 8 --

15 MR. BELLINDER: And, also, not --
16 Biloxi police are not leased or lended to the
17 casino to provide any level of private
18 security. As is done in certain
19 circumstances, that's not done as references
20 the Biloxi Hard Rock Hotel and Casino.

21 MS. STEEL: Yes. I mean, that's my
22 understanding, but if you want to ask the
23 designee that, that's fine.

24 MR. BELLINDER: We may just confirm
25 that, but it sounds like from all of what

1 we've done, that's the case.

2 MS. STEEL: I just want to make it
3 clear that I haven't designated someone
4 outside the City's knowledge to testify.

5 MR. BELLINDER: Right. And it
6 doesn't sound like we need it, but we may just
7 confirm that with him but --

8 MS. STEEL: That's fine.

9 Topic Number 8, plaintiffs' counsel
10 has agreed to remove the eight-year time
11 period from that topic.

12 Topic Number 13, that topic has been
13 withdrawn from the 30(b)(6) deposition, but
14 counsel have agreed that the production of
15 related documents, which has been requested in
16 written discovery, will be revisited.

17 MR. BELLINDER: And to the extent
18 that we need to supplement or to send a good
19 faith letter, a good faith certificate, you
20 know, file motions at that point, we'll deal
21 with that later on.

22 MS. STEEL: Okay.

23 MR. BELLINDER: We won't object to
24 improper designation. We may need to just
25 reserve the right to talk to somebody else in

1 the event that we get into some area that --
2 is it Sergeant Miller?

3 THE WITNESS: Chief Miller.

4 MR. BELLINDER: -- that Chief Miller
5 is not prepared to talk about today. Does
6 that make sense?

7 MS. STEEL: I didn't follow you, and
8 I want to make sure --

9 MR. BELLINDER: What we talked about
10 the other day is --

11 MS. STEEL: I want to make sure,
12 Thomas, that you are not bringing sanctions --

13 MR. BELLINDER: No, no, no.

14 MS. STEEL: -- against the City of
15 Biloxi or making a motion to compel --

16 MR. BELLINDER: No.

17 MS. STEEL: -- this deponent to --

18 MR. BELLINDER: This is the current
19 chief, and so he is prepared based on the
20 30(b)(6) notice and your prep of him --

21 MS. STEEL: Exactly.

22 MR. BELLINDER: -- to testify about
23 -- my understanding is everything that you and
24 I talked about the other day and I think
25 everything that I had to ask about. To the

1 extent there's something that we get into --
2 we may stumble upon something that's outside
3 of the scope of the 30(b)(6) -- not the notice
4 but outside of the scope of what he's prepared
5 to testify about, we may need to send a
6 subsequent letter or file a motion or just
7 have somebody else produced that may can speak
8 to that area, but that's just --

9 MS. STEEL: Well, now, let's make
10 clear that if you go outside the scope of the
11 30(b)(6) notice I'm gonna object --

12 MR. BELLINDER: Of course.

13 MS. STEEL: -- and say he's --

14 MR. BELLINDER: Yeah. That's why
15 our 30(b)(6) notice was broad, so that way --

16 MS. STEEL: Okay. All right.

17 MR. BELLINDER: We contemplated
18 everything in getting ready. He's here to
19 talk about, I think, everything that we've
20 addressed as being relevant to this case.

21 MS. STEEL: Now, Topic Number 14, in
22 preparing for the deposition -- and this may
23 be my error in taking notes of what our
24 agreement was, but in addressing Topic Number
25 14, I was unable to narrow it down to the

1 scope -- to a workable scope, so I'm going to
2 stand on the City's objection --

3 MR. BELLINDER: And 14 is the
4 prior --

5 MS. STEEL: Prior complaints. But
6 what I will submit to you is that you and I
7 can certainly try to narrow it down. If we
8 get it narrowed down, we will submit to you a
9 list of cases, and then if you need to
10 question a City rep, we will certainly allow
11 that.

12 MR. BELLINDER: And I think the best
13 way to probably handle that is just to ask him
14 about it as we go, and then what he knows,
15 what he's got on top of his head, that's fine,
16 and then we'll revisit the document
17 production --

18 MS. STEEL: I have not designated
19 anyone to testify on Topic Number 14.

20 Now, 16, Topic Number 16 has been
21 withdrawn.

22 Topic Number 18, the plaintiffs'
23 counsel will accept the 30(b)(6) rep's
24 testimony as the explanation of the City.

25 Topic Number 19, plaintiffs' counsel

1 has withdrawn subsequent complaints from the
2 scope of the topic, and he has confined the
3 topic to the identification of prior
4 complaints of excessive force on the officers
5 who had direct involvement with these
6 plaintiffs.

7 Topic Numbers 20, 21 and 22, we
8 remain committed that those things are
9 overbroad and irrelevant because they refer to
10 incidents other than this one, and even as
11 regards to this one, they're protected from
12 disclosure by the governmental privilege.
13 However, plaintiffs' counsel has agreed that
14 the general background and scope of the
15 internal investigation can be testified to
16 today without him raising a waiver of the
17 governmental privilege.

18 If y'all agree to that as well, then
19 this designee will give general information
20 about the internal investigation. Is that --

21 MR. BELLINDER: We, of course, won't
22 waive the right of the plaintiffs to get into
23 that, but we'll accept Chief Miller's
24 designation for today's purpose.

25 MS. STEEL: But you're not gonna

1 raise a waiver of the governmental
2 privilege --

3 MR. BELLINDER: Right.

4 MS. STEEL: -- if he testifies --

5 MR. BELLINDER: That's something
6 that the judge would have to decide anyway.

7 MR. STEWART: I don't think Hard
8 Rock would have a position either way, so I
9 don't have any objection to it. I think Rusty
10 would.

11 MR. GILL: Can we go off the record
12 and you and me talk a minute?

13 MS. STEEL: Sure.

14 - - -

15 (Off the record.)

16 MS. STEEL: 20, 21 and 22, we remain
17 committed to the governmental privilege
18 objection and overbroad and irrelevant, but we
19 have agreed that this representative can talk
20 generally about the internal investigation
21 that was done in the Jordan and Soukup
22 incident without plaintiffs' counsel or anyone
23 in the room hopefully raising a waiver of the
24 governmental privilege objection.

25 MR. GILL: That's agreeable.

1 MS. STEEL: Finally, 24, plaintiffs'
2 counsel has agreed for the deposition that
3 this topic is confined to information in the
4 City of Biloxi's file regarding Jordan and
5 Soukup incidents as it relates to crime
6 reports of the Hard Rock. Again, counsel and
7 I are going to revisit that topic later, but
8 for purposes of 30(b)(6), we have not
9 designated Director Miller to testify about
10 that.

11 And, finally, Director John Miller
12 is the director of the City of Biloxi
13 Department of Police, and he's the City's
14 30(b)(6) representative for the remaining and
15 modified topics in the 30(b)(6) notice.

16 - - -

17 (Off the record.)

18 EXAMINATION

19 BY MR. BELLINDER:

20 Q. Do I call you chief, director?

21 A. Either one. John, whatever you
22 want. It doesn't matter.

23 Q. Okay. Good morning. My name is
24 Thomas Bellinder. We met just a moment ago.
25 Myself and some other lawyers represent Jason

1 Jordan, Alyssa Jordan and Chris Soukup as it
2 relates to some incidents that took place at
3 the Hard Rock Casino back in 2011.

4 MR. BELLINDER: For the record, the
5 deposition is being taken pursuant to the
6 Federal Rules of Civil Procedure and all
7 permissible uses thereunder.

8 MR. BELLINDER:

9 Q. I'm going to be asking you a series
10 of questions about those incidents and the
11 City's involvement in those and some other
12 areas that counsel addressed a moment ago.

13 Before we get started, have you ever
14 given a deposition before, Chief?

15 A. I have.

16 Q. So you kind of understand this
17 process. The court reporter is here. She's
18 sworn you in. We're here to -- not in a
19 formal setting like we would be in a
20 courtroom, but real broad, to just sort of
21 have a conversation about some of the things
22 that happened.

23 You are under oath to tell the truth
24 to the extent you can. However, your only --
25 the best of your knowledge is all we can ask

1 for today. "I don't know" is a perfectly good
2 answer.

3 You've been designated as the Rule
4 30(b)(6) representative. Do you basically
5 understand what that means?

6 A. I do.

7 Q. You are on behalf of the City and
8 giving us what the City's sort of position is
9 and what the City's knowledge is.

10 We will -- as we get going, we may
11 get into casual sort of conversation. I may
12 ask you something you already know what I'm
13 gonna ask you, and so you may start answering
14 my question before I finish, or I may overlap
15 and start asking the next question before you
16 finish your answer. That makes her job a
17 little tough. So what we'll do is if you'll
18 allow me to finish, I'll allow you to finish,
19 and we'll keep moving.

20 Audible answers also is a help to
21 her. You and I may say uh-huh or nuh-uh. We
22 may nod our heads, and you and I understand
23 exactly what we're saying, but looking back on
24 the record, she's gotta have a clear audible
25 answer.

1 A. Sure.

2 Q. Also, to speed things up a little
3 bit, anytime I ask you any specific question
4 about a conversation that was had or an
5 individual or some set of circumstances, it'll
6 always call for your personal knowledge or the
7 City's knowledge of that particular subject
8 matter area and only what you know of or what
9 you've been made aware or what the City has
10 gathered as far as information. Okay?

11 A. Sure.

12 Q. All right. If you would, just tell
13 us your full name.

14 A. John Brent Miller.

15 Q. And, Chief Miller, where do you
16 currently reside?

17 A. In Ocean Springs.

18 Q. How long have you lived there in
19 Ocean Springs?

20 A. Oh, about -- I guess about eight
21 years. Well, actually I grew up in Ocean
22 Springs, but a current resident, about eight
23 years.

24 Q. And you are the current -- tell us
25 your current position with the City of Biloxi.

1 A. Director of police.

2 Q. How long have you held that post?

3 A. Since December of '09.

4 Q. Were you with the City of Biloxi

5 Police Department before you took that

6 position?

7 A. I was.

8 Q. How long were you with the City of

9 Biloxi prior to accepting the position as

10 director of police?

11 A. Let's see. I hired in on December

12 17th, 1990.

13 Q. That was your hire date?

14 A. Yes.

15 Q. What was your initial position there

16 in 1990?

17 A. Patrolman.

18 Q. Have you worked consistently from

19 December 17, 1990, through today with the

20 City?

21 A. Yes.

22 Q. Tell us a little bit about your

23 advancement within the department from there

24 as patrolman in 1990 to now as the director of

25 police.

1 A. Hired on in 1990 as patrolman, went
2 through the police academy, went to patrol.

3 Q. The --

4 A. I'm sorry.

5 Q. No. Go ahead. I didn't mean to
6 interrupt you. I was gonna -- the academy is
7 there in Pearl on 468, is that the --

8 A. No. I went to a Long Beach academy.

9 Q. Long Beach?

10 A. Yeah, which no longer exists.

11 Q. Okay. Go ahead. I didn't mean to
12 interrupt you.

13 A. I went to patrol. I think I stayed
14 on patrol until about '95. In '95, I moved to
15 narcotics. I stayed in narcotics for many
16 years, up until about -- I'm not real sure on
17 the dates, but I want to say about maybe 2008,
18 '7 -- maybe 2007 I moved to criminal
19 investigations, ran the criminal
20 investigations division. Then I moved back to
21 narcotics for about a year, and then I ran
22 narcotics and criminal investigations
23 together. During that time, I was promoted to
24 the rank of lieutenant and then to captain,
25 and then in December of 1990, I was appointed

1 director.

2 Q. December '09?

3 A. I'm sorry. Yeah.

4 Q. Okay. And so what is your date of
5 birth?

6 A. August 10th, 1959.

7 Q. Currently married?

8 A. Yes.

9 Q. What is your spouse's name?

10 A. Vondell, V-O-N-D-E-L-L.

11 Q. Miller?

12 A. Yes.

13 Q. Ever married before Ms. Vondell?

14 A. Was I married before?

15 Q. Yes.

16 A. Yes.

17 MS. STEEL: I think we've given some
18 leeway on background, but he is 30(b)(60).
19 He's the City.

20 MR. BELLINDER: But here's the
21 thing, I can't have the chief of police's
22 ex-wife on the jury.

23 MS. STEEL: Okay.

24 MR. BELLINDER: I can't have his
25 current wife on the jury.

1 MR. BELLINDER:

2 Q. And let me preface this. A lot of
3 times -- and I always skim over this. I hate
4 to do it. But these background questions are,
5 of course, to get to know you, and your
6 capacity is different than just a fact
7 witness, somebody who -- like our last few
8 days, we've been talking to people who were
9 actually there on the scene, so they're a
10 little different. But in the event that we
11 would have to go all the way to pick a jury in
12 the case, we've gotta make sure that the
13 jurors that we select are the proper jurors
14 for the case. They may be qualified as
15 jurors, but my wife, you know, counsel's wife
16 or the parties, the witnesses or anybody
17 relevant with the City or the casino, they may
18 be good jurors, they may just not be the right
19 jurors for our case. That's the only purpose
20 for me asking some of the background --

21 A. Ask what you'd like. I'm an open
22 book.

23 Q. Okay. Prior to Ms. Vondell, had you
24 ever been married before?

25 A. I had.

1 Q. Okay. Prior spouse's name?

2 - - -

3 (Off the record.)

4 A. Tammy.

5 MR. BELLINDER:

6 Q. Tammy's I guess maiden name or her
7 remarried name? Let me ask, Ms. Tammy, does
8 she reside in the Southern Mississippi area?

9 A. I kind of doubt that.

10 Q. Okay.

11 A. I have no idea where she resides,
12 but I don't think it's in the South.

13 Q. Other than Ms. Vondell, Ms. Tammy,
14 any other prior spouses?

15 A. No.

16 Q. Do you have any children over the
17 age of 18?

18 A. I have two stepchildren.

19 Q. That's from Ms. Vondell?

20 A. That's from Ms. Vondell.

21 Q. Are they over the age of 18?

22 A. Yes.

23 Q. What are their names?

24 A. Gretchen Vondell Warkintian.

25 Q. W-A-R --

1 A. -- K-I-N-T-I-A-N.

2 Q. Okay.

3 A. Wesley Richton Hall.

4 Q. H-A-L-L?

5 A. Yes.

6 Q. Does Gretchen or Wesley reside in
7 the Southern Mississippi region?

8 A. They both do.

9 Q. Do you know where they reside?

10 A. I don't know their addresses.

11 Q. Biloxi, Ocean Springs?

12 A. They both reside in Ocean Springs.

13 Q. That's good.

14 Military background?

15 A. No.

16 Q. All right. Now, the City -- certain
17 officers with the City of Biloxi were called
18 to the Hard Rock Hotel and Casino on or about
19 November 27th, 2011, to respond to a
20 disturbance. Is that the City's or your
21 understanding of how those officers came to be
22 on the premises that night?

23 A. That's correct.

24 Q. They were called by a casino
25 employee in response to a disturbance?

1 A. That's right.

2 Q. What is your understanding of that
3 -- of those circumstances as they led up to
4 the officers actually being on the premises?

5 A. It's my understanding they were
6 called there for a fight.

7 Q. Did you ever determine what that
8 initial fight was? And when I say "your," in
9 this sort of setting, your and the City is
10 kind of interchangeable. So I may say "your."
11 It may not be you personally --

12 A. Sure.

13 Q. -- but on behalf of the City, the
14 department -- what the department learned
15 about the fight.

16 And what I mean is was that the
17 specific -- as we understand through the
18 witness testimony, there was an altercation
19 between Mr. Jordan and some other members of
20 the group he was with that night, his -- maybe
21 a squadron or something like that, the members
22 of his group.

23 Was there -- did the City ever
24 determine that that initial call came from
25 that altercation, or was it a different actual

1 altercation that was going on in that
2 nightclub?

3 A. It was my understanding it was that
4 altercation. It was actually an altercation
5 between -- I think it started between Mr.
6 Jordan and his wife.

7 Q. How did the City receive that
8 information? Do you know?

9 A. No, I don't.

10 Q. Now, there was also reference to
11 some other individuals being detained, and
12 there was a name for it. I think it was the
13 interview room of the --

14 A. It's customary for the casino
15 security to take people out if they're causing
16 a disturbance, or if they're disruptive,
17 they'll take them down to their interview
18 rooms.

19 Q. And we're able to see it on some of
20 the surveillance tape. I'll ask you just
21 briefly about that as well. But the -- there
22 was some individuals in that interview room
23 when Mr. Soukup was brought down there by Mr.
24 Strong. Do we have any idea about their
25 involvement or why they were down there or --

1 A. I do not.

2 Q. Okay. Now, tell me what it was that
3 the City learned about these incidents and the
4 incidents involving Mr. Jordan and the City's
5 response or the City's officers response when
6 they got on the scene?

7 A. Well, it's my understanding that Mr.
8 Jordan apparently, according to what we were
9 told, had assaulted his wife, and then Mr.
10 Soukup intervened on that, intervened in that
11 altercation, and then he and Mr. Soukup --
12 Jordan and Soukup apparently got pretty
13 physical with each other.

14 Q. Do you know who it was that informed
15 the City that Mr. Jordan assaulted his wife?

16 A. One of the security guards.

17 Q. Were we able to -- ever able to
18 identify which security guard informed the
19 officers that --

20 A. I'm pretty sure we did, but right
21 offhand, I don't remember which one it was,
22 but I'm pretty sure that we did.

23 Q. Okay. Officers arrive on the scene,
24 and then what is the City's understanding of
25 their response to the situation or what they

1 observed?

2 A. Two officers arrived first, which
3 would have been Franevich and Hilliard, and I
4 think they were just outside the club. That's
5 where the security had Mr. Jordan on the
6 ground. The officers attempted to put Mr.
7 Jordan into handcuffs. It was at that time
8 that Officer Hamilton arrived, and Mr. Jordan
9 refused to allow himself to be handcuffed, so
10 he received a drive stun from Mr. Hamilton's
11 Taser.

12 Q. And before we go further, just for
13 laymen's purposes, tell us what a drive stun
14 is.

15 A. A drive stun is basically using your
16 Taser, removing the cartridge and just
17 allowing the voltage to come directly from the
18 Taser into the subject.

19 Q. You say remove the cartridge --

20 A. The cartridge actually shoots two
21 barbs out that are connected to the Taser with
22 wire.

23 Q. Gotcha. So in other words,
24 sometimes we see on videos and TV and stuff
25 the prongs come out with the wire, and then

1 they attach to somebody, perhaps if somebody's
2 running or a distance away?

3 A. That's right.

4 Q. And so that part that would do that
5 was removed, and so it's literally the weapon
6 itself contacting --

7 A. That's right.

8 Q. -- the suspect's body?

9 A. That's right.

10 Q. Okay. What is the City's
11 understanding of what happened next?

12 A. Well, he complied. Once he had been
13 drive-tased, he complied and put his hands
14 behind his back.

15 Q. And at that point, what happened?

16 A. At that point, they attempted to
17 take him out of the casino. The preferable
18 way would have been for him to stand and walk
19 out away from the crowd preferably, but he
20 refused to do that.

21 Q. Okay. At this point, what are the
22 options as far as removing him from the
23 nightclub? He is -- we said he's complied,
24 he's been tased at this point, he's
25 handcuffed --

1 A. Well, he's complied with being
2 handcuffed, but he has not complied with
3 standing and walking on his own.

4 Q. Did the officers request or did they
5 inquire as to his injuries at that point?

6 A. I don't know if they inquired about
7 injuries or not.

8 Q. Did they know if he could stand?

9 A. Yes. He was alert.

10 Q. Okay. So he was alert, but
11 physically were they aware of whether or not
12 he could stand or not?

13 A. The officers believed that he could
14 stand and walk.

15 Q. Okay. And so what are the options
16 if he cannot walk, or if he does not walk,
17 what are the options at that point?

18 A. Well, you become a bit limited.
19 You're gonna have to carry him out. I know
20 there was some discussion about using a
21 wheelchair, which I absolutely would have
22 blown a gasket if they had put him in a
23 wheelchair and tried to take him down the
24 steps or the stairs.

25 Q. Okay. And why is that?

1 A. I think that would be more dangerous
2 than carrying him.

3 Q. Are you aware if there's an elevator
4 in the --

5 A. There is an elevator. The club at
6 that point had been shut down. So you can
7 imagine, there's probably in excess of 150,
8 maybe 200 people in the club all trying to get
9 out at the same time. And it's our policy
10 that you take a disruptive person away from
11 the crowd and not into the crowd. That could
12 be a dangerous situation, not only for the
13 officers but for the suspect.

14 Q. And so there is a -- there's a time
15 concern; in other words, he needs to be
16 removed from the general population, or the
17 people in the club need to be removed from him
18 as quickly as possible?

19 A. Well, one way or the other. I'm not
20 so sure that I would refer to it as a -- you
21 know, as a time concern. I'm sure that the
22 time was of the essence to get him removed
23 from there.

24 Q. And naturally, I mean, hindsight is
25 20/20. We have the benefit of looking back --

1 A. Sure.

2 Q. -- you know, in the midst of a
3 circumstance, and I think the policy speaks to
4 that, I think the law speaks to that as far
5 as, you know, allowing some leeway.

6 But I guess my question would be, he
7 could have been placed in the wheelchair and
8 taken to the elevator and brought down at that
9 point?

10 A. Well, he could have if there had not
11 been such a crowd in the club. I think they
12 had shut the club down. And at one point --
13 and this has never been confirmed -- at least
14 I haven't confirmed it -- that the elevator
15 was actually shut down for a period of time,
16 and that could have been for safety concerns.
17 You know, I don't know that to be a fact
18 but --

19 Q. That would be my question. Do we
20 know that evening, that particular time
21 whether or not the elevator was working?

22 A. I do not.

23 Q. Okay. And so would you -- we talked
24 about your reaction should they have tried to
25 place him in a wheelchair and then take him

1 down the stairs, and actually that makes
2 sense. If they would have say waited for the
3 other folks or even moved him to the side and
4 sort of created a barrier between the police
5 and the security to allow everybody to leave,
6 then put him in the wheelchair and take him
7 down the elevator, what would your reaction
8 have been at that point?

9 A. Well, I think they did the right
10 thing by trying to get him away as quick as
11 they did. The barrier that you're talking
12 about -- and no disrespect to you, but that's
13 a little bit ridiculous that you've got three
14 policemen that's gonna hold a barrier against,
15 you know, 100, 150 people.

16 Q. And, look, that's not the first
17 ridiculous and won't be the last ridiculous
18 question I ask, I'm sure. Thinking through
19 it, that's my only question on that.

20 Okay. So, now, they've -- we talked
21 about a drive stun, handcuffed, and at that
22 point, they bring him through the casino. We
23 sort of see him being taken down the stairs.
24 We see his arms -- and I think there's a term
25 for it, the way that the officers sort of lift

1 his arms. He's handcuffed behind his back,
2 but they're sort of lifting his arms above his
3 head almost in a dragging motion. Is there a
4 name for that?

5 A. I'm not sure that -- I don't know of
6 a name for that, but I don't recall seeing
7 that either.

8 Q. Have you seen the surveillance tape?

9 A. I have, yes.

10 Q. They sort of have him -- I guess as
11 you -- you may -- and we can show it to you,
12 of course, if it's necessary, but his arms are
13 sort of behind his back and then lifted above
14 his head, and they've got their arms sort of
15 underneath his and sort of pulling his arms up
16 almost in an unnatural position. Do you
17 recall seeing that on there?

18 A. I do recall seeing what you're
19 talking about, but I would dispute that you
20 would -- that it would be an unnatural
21 position. It would be unnatural only in the
22 fact that he normally probably wouldn't put
23 his hands behind his back like that.

24 But, you know, an escort hold is an
25 escort hold. If he'd have been on his feet

1 walking, the escort hold would have been hand
2 across the back of his shoulder, but since he
3 refused to walk, the escort hold would have
4 been around the arms here, keeping his body
5 weight up off of his arms.

6 Q. And that's the term I was searching
7 for. Tell us, what is an escort hold?

8 A. An escort hold is simply a way to
9 move someone forward on their feet, you know,
10 if they're willing to, by taking your arm --
11 putting your arm between their arm and laying
12 your hand on the top of their shoulder.

13 Q. Kind of like a half-Nelson almost in
14 wrestling?

15 A. Yeah. A little bit. Yeah. Which
16 works very well if you're dealing with someone
17 who isn't resistive.

18 Q. Now, would he not have -- with his
19 hands behind his back, could the officers -- I
20 guess -- it may have been called an arm and
21 arm. I think that's the way the officer
22 reference the Alyssa Jordan escort once she's
23 taken, and we'll get there in a moment.

24 An option for the officers could
25 have been to put their arms -- instead of

1 entering I guess at his side from the front
2 and his rib and going up, could they not have
3 come from behind his arms and sort of escorted
4 him -- there's two of them there, and we see
5 four later that come, but could they not have
6 just escorted him with their arms, both of
7 them, and then kind of pull him up, almost as
8 if he's standing? Does that make sense?

9 A. Well, I mean, it's -- I guess that
10 sounds feasible, but theoretically that's very
11 difficult. You've got a man who's got dead
12 weight, and you've got officers trying to
13 carry him down the staircase. I think they
14 had better control of him -- I know they had
15 better control of him in carrying him the way
16 they carried him.

17 Q. And do we know how much Jason Jordan
18 weighed?

19 A. I don't know, but anything over 100
20 pounds -- I guess Jason Jordan would probably
21 weigh somewhere around 170, 180 pounds.

22 Q. Okay. So he's brought down the
23 stairs and then kind of through a casino area,
24 and at certain points he's sort of let go or
25 put on the floor. Do we know if that's -- the

1 reason for that, is that fatigue? Is it --

2 A. Oh, most definitely. Not only would
3 they need to lay him down for themselves, but
4 they would need to lay him down occasionally
5 anyway.

6 Q. And then at some point, Alyssa
7 Jordan is following, I guess. She's -- maybe
8 the whole time -- she's there as well as a
9 representative -- or a few representatives of
10 the casino are also there, and then at some
11 point, there's an altercation between Alyssa
12 and the officers. Can you tell us what the
13 City knows about that?

14 A. I don't know if it was an
15 altercation. I know that there was several
16 times that Alyssa was getting loud and telling
17 her husband -- I know at one point she told
18 him, you know, he was embarrassing himself, to
19 stand up and walk. I know that was taking
20 place. And I'm sure she was, you know,
21 hollering at the officers, also.

22 Q. And you know that how; the officers
23 would have said that?

24 A. Yes. I read that in several
25 reports.

1 Q. And so were you also -- was the City
2 also made aware that she was trying to pull
3 his pants up? At some point, his pants had
4 come down.

5 A. I don't recall. I wouldn't doubt
6 that at all. I wouldn't doubt that a bit.
7 I'm sure she wanted his pants up. I know the
8 officers tried to pull his pants up a couple
9 of times, also.

10 Q. And so she's taken into custody at
11 some point. She's actually placed under
12 arrest and --

13 A. That's correct.

14 Q. -- put in handcuffs?

15 A. That's correct.

16 Q. Do we know whether or not at any
17 point Mr. Jordan or Mrs. Jordan were read
18 their rights, their Miranda?

19 A. I wouldn't think that they would've
20 been read their rights. I wouldn't see a
21 reason to read their rights to them.

22 Q. Okay. They were under arrest,
23 correct?

24 A. They are under arrest, but that's
25 not a prerequisite, to read rights. You would

1 only read someone their rights if you were
2 going to question them. Beyond their --

3 Q. And so --

4 A. Beyond their -- I'm sorry.

5 Q. No, no, no. That was my fault. Go
6 ahead.

7 A. Beyond their -- you know, just their
8 basic information.

9 Q. And so no questions were asked of
10 Alyssa or Jason at any point when the police
11 came and when Biloxi came in contact with
12 them?

13 A. Oh, I'm sure they asked them
14 questions. I'm sure they asked them to supply
15 identification. I'm sure they asked them who
16 they were, you know.

17 Q. Okay. So she's taken into -- she is
18 -- handcuffs were placed on her, she's placed
19 under arrest?

20 A. That's right. The questions that I
21 was talking about are questions in relation to
22 the crime itself. That's when you would need
23 to Mirandize someone.

24 Q. What happened, what was going on,
25 why is this taking place, stuff like that?

1 A. Yes. I just wanted to clarify that.

2 Q. Right. Absolutely.

3 Okay. So we're -- at this point,
4 Alyssa is in handcuffs, and then what happens
5 next, to your knowledge, to the City's
6 knowledge?

7 A. Well, they're both transported to
8 the Biloxi Police Department.

9 Q. At any point, was an ambulance
10 called, to the City's knowledge?

11 A. I heard that there was an ambulance
12 that was called by the casino, but I didn't
13 know that until recently, but not by the
14 officers, no.

15 Q. Okay. Have you seen the part of the
16 video where Jason Jordan is outside the
17 nightclub, I guess it was in kind of the valet
18 part where --

19 A. Yes.

20 Q. Closest to the door would be valet,
21 where people can come and have their cars
22 parked for them. Have you seen the part where
23 the ambulance comes up -- or the stretcher
24 comes up with the EMTs? They actually bring a
25 stretcher up, and the police --

1 A. I don't recall seeing that.

2 Q. Okay. At this point where Jason is
3 outside, do you know or was the City ever made
4 aware that Jason was complaining of pain, that
5 he was saying that he was hurt, stop hurting
6 me, things like that?

7 A. No, I have not heard that.

8 Q. That was never documented?

9 A. I have not heard that.

10 Q. And the video reflects the officers
11 -- when the stretcher comes up, he's on the
12 ground. He's not moving. Then they wave the
13 stretcher off. Is that customary? Is that
14 something that -- should they have allowed --
15 at that point, should they have allowed the
16 EMTs to look at Jason to see if he had
17 injuries, just to confirm or deny whether he
18 had injuries?

19 A. No. I doubt very seriously that he
20 was complaining that he needed a physician, or
21 they would have brought him one. I mean,
22 that's just standard for us. As a matter of
23 fact, they would have preferred to have put
24 him on a stretcher and brought him down from
25 upstairs.

1 Q. Right.

2 And so if there was an ambulance or
3 an EMT on the way, that would have been the
4 preferred way to remove him from the club?

5 A. If he was --

6 Q. But -- I'm sorry. Go ahead.

7 A. If he was injured or unconscious.

8 Q. But there was no confirmation as to
9 that prior to the drive stun and then taking
10 him downstairs?

11 A. I'm not --

12 MS. STEEL: Objection. Object to
13 the form.

14 MR. BELLINDER:

15 Q. Did the officers ask Jason or ask
16 anybody around him whether or not he had
17 sustained any injuries at that point? Did
18 they inquire as to whether or not he was hurt?

19 A. I can't answer that. I don't know
20 if they did or not, to be honest with you.

21 Q. And so if they would have inquired
22 as to whether he was hurt and if he was hurt,
23 the proper steps would have been get him in a
24 stretcher, take him down that way?

25 A. Properly -- if he was injured, he

1 should have told them he was injured, unless
2 they saw something that they believed was an
3 injury.

4 Q. And so whether or not he said you're
5 hurting me, you're hurting me, I'm hurt, is a
6 matter of he says he said it, they say he
7 didn't say it, basically, because there's no
8 audio on the video, we don't have any -- it's
9 one person's word against another, basically?

10 A. Well, you say one person's word --

11 Q. And then also hindsight 20/20, we
12 know he was hurt, so --

13 MS. STEEL: Wait. Object to the
14 form.

15 MR. STEWART: Join.

16 MR. GILL: Join.

17 MR. BELLINDER:

18 Q. Okay. And they may -- I'm sure --
19 you've seen a deposition. They do that.
20 That's a bookmark because I may have asked a
21 bad question. There may be an objection as to
22 the substance of what I'm saying.

23 Like I said, hindsight 20/20, we see
24 he had to have two wrist surgeries subsequent
25 to the incident. But at the time, was it

1 policy or would it have been proper practice
2 for the officers to inquire as to whether or
3 not Jason Jordan had injuries before we take
4 him throughout the nightclub and into the
5 cruiser?

6 MS. STEEL: Object to the form.

7 MR. BELLINDER:

8 Q. Go ahead.

9 A. Only if they believed that he had
10 injuries, if they could see injuries or that
11 he was telling them that he had injuries.

12 Q. And so the officers did not -- and
13 it's not in their reports and they didn't
14 express whether or not he said that?

15 A. No, it's not in the reports.

16 Q. Did they tell their supervisors or
17 did they express to the City that they asked
18 about it?

19 A. Not that I know of.

20 Q. Okay. So at this point, he's placed
21 into a cruiser. The other -- Mrs. Jordan is
22 also placed into a cruiser. And then there's
23 an incident with a gentleman outside of the
24 nightclub I believe that's caught on a cell
25 phone video. Do you know the officer's name

1 that was involved in that incident?

2 A. I do.

3 Q. What is his name?

4 A. Hamilton.

5 Q. Hamilton was involved in the
6 altercation with the other gentleman?

7 A. Yes.

8 MR. GILL: Let me object to that
9 form.

10 MR. BELLINDER:

11 Q. And so -- and let's ask it
12 generally. Arising out of this incident --
13 these incidents and this evening, was there
14 any disciplinary action taken as a result of
15 any of the officers' conduct?

16 MR. GILL: Let me enter an objection
17 on that as well.

18 MS. STEEL: And, again, I think I've
19 made my objection known, but we contend that
20 that's governmental privilege. He can, again,
21 under the same stipulations we talked about
22 testify very generally.

23 MR. BELLINDER: And our response to
24 that is that the video itself begins with a
25 statement that says somebody was just drug out

1 like a pig, and then this defendant was
2 involved in this set of incidents that
3 occurred moments after, and that's my only --
4 and to -- my question asked whether anybody
5 had any disciplinary action out of that
6 evening.

7 MS. STEEL: Yes, and you're talking
8 about the incident --

9 MR. BELLINDER: No. I'm talking
10 about that evening, and I understand what --

11 MS. STEEL: And he is not prepared
12 to testify about that, but your question about
13 discipline, I mean --

14 MR. BELLINDER: I know you want to
15 draw a line in the sand, you know, everything
16 before this particular moment in time was one
17 incident, then everything after was some
18 separate incident.

19 MR. BELLINDER:

20 Q. But my question is was anybody
21 disciplined that evening?

22 MR. GILL: Before you answer that,
23 to the extent you've asked him to comment on
24 hearsay, I object to that as well.

25 MR. BELLINDER:

1 Q. And I'll show you what we're talking
2 about if you want to see it. I'm sure you've
3 seen it already. But go ahead. To the extent
4 that you know, was anybody disciplined out of
5 this?

6 MS. STEEL: Object to the form of
7 that question.

8 MR. BELLINDER: We've got that
9 objection I think four times on the record.
10 MR. BELLINDER:

11 Q. Go ahead.

12 A. You made reference to draw a line in
13 the sand and try to make them two different
14 incidents. They were absolutely two different
15 incidents. They had nothing to do with each
16 other whatsoever.

17 Q. So in other words, Officer Hamilton
18 acted properly up until this line that we've
19 drawn in the sand, and then he acted
20 improperly?

21 A. There was no disciplinary action on
22 any officer that dealt with the Jordans or
23 Soukup or Ms. Jordan at all.

24 Q. Okay. So none of the officers that
25 were involved in that incident -- and I think

1 we've named at least three -- that would be
2 Hamilton, Franevich and Hilliard -- were
3 disciplined as of -- call it November 28th,
4 the next day, they were not disciplined as of
5 that day?

6 A. In reference to --

7 MS. STEEL: What? Object to the
8 form.

9 A. I need you to explain that better.

10 MR. BELLINDER:

11 Q. They may have been disciplined in
12 reference to other things, but we're saying
13 there was no discipline out of this incident
14 for those guys, right?

15 MS. STEEL: Object to the form, but
16 if you understand it --

17 A. Well, I think I understand. You're
18 saying -- when you refer to "this incident,"
19 you're talking about the incident --

20 MR. BELLINDER:

21 Q. I'm talking about everything that
22 happened from the time when the officers
23 showed up to the Hard Rock to when the
24 officers left the Biloxi Hard Rock.

25 A. Okay. Yes, there was some

1 discipline.

2 Q. Tell us about that discipline.

3 MS. STEEL: All right. But, again,
4 he's already testified they are separate
5 incidents.

6 MR. BELLINDER: We got that.

7 MR. BELLINDER:

8 Q. Go ahead and tell us --

9 MS. STEEL: And I will object to --
10 he is not prepared here today to testify about
11 the subsequent incident.

12 MR. BELLINDER:

13 Q. Tell us what you know about their
14 discipline from that evening.

15 MR. GILL: Well, let me join that
16 objection and make sure we're clear on this.
17 Your question presumes until they left the
18 scene, they left the casino, that would entail
19 the second incident. We think that's
20 irrelevant.

21 MR. BELLINDER: I know. And that's
22 for the judge to decide. As we sit today,
23 he's got knowledge of the discipline that took
24 place that night, and I think it's proper that
25 we ask him about it.

1 MR. BELLINDER:

2 Q. Go ahead.

3 A. Mr. Hamilton was disciplined for his
4 use of vulgar language.

5 Q. No discipline -- we'll start with
6 Mr. Hamilton. No discipline for Mr. Hamilton
7 as to the use of force at all that evening?

8 A. It's kind of difficult to answer.
9 Mr. Hamilton used some language that I
10 personally don't accept and don't allow, and
11 that's what he was disciplined for on that
12 particular incident.

13 Q. Okay. Let me ask you some questions
14 about --

15 MR. BELLINDER: Do y'all need a
16 break?

17 MS. STEEL: No.

18 MR. BELLINDER:

19 Q. You're aware of the policies and
20 procedures of the department; is that right?

21 A. I try.

22 Q. You are the -- yeah. You are chief,
23 and so everybody within the department is
24 trained on all the policies and procedures and
25 the general orders of the department?

1 A. That's correct.

2 Q. And there's policies and procedures
3 on use of force, there's policies on a little
4 bit of everything; is that right?

5 A. That's correct.

6 Q. Their officers are also trained on
7 -- and while we're talking about the training,
8 officers are trained on completing police
9 reports; is that right?

10 A. That's correct.

11 Q. And generally they're trained that
12 those reports should be thorough, accurate and
13 complete; is that fair?

14 A. That's correct.

15 Q. In other words, they need to put in
16 there everything that's important, everything
17 that's relevant, everything that happened
18 about these incidents that they see; is that
19 right?

20 A. That's correct.

21 Q. Let me just ask you -- I'm
22 referencing page 5 of 9. These are the law
23 enforcement policies, 5.1, Biloxi police,
24 response to resistance and deadly force.

25 MS. STEEL: Do you mind if I -- I've

1 got those here.

2 MR. BELLINDER: Yeah. If you've got
3 an extra copy, we can attach it. I was just
4 gonna reference them.

5 - - -

6 (Off the record.)

7 (Exhibit 2 was marked.)

8 MR. BELLINDER:

9 Q. Okay. We've got Exhibit 2. This is
10 the policy -- I think it's 5.1, City of
11 Biloxi, response to resistance, and that's the
12 reason for the stun. The reason for the
13 removal of Mr. Jordan in the fashion he was
14 removed is that the City is claiming that he
15 was resisting arrest or resisting the attempts
16 to subdue him at that point; is that right?

17 A. That's correct.

18 Q. And so this policy would be relevant
19 to what it is that took place that evening --

20 A. Yes.

21 Q. -- is that correct?

22 Page 5, Response Options: Officers
23 use -- I'm referencing -- this is under
24 Response Options. That's the fourth paragraph
25 down. It says: Officers use handcuffs or

1 other restraining devices on all arrestees
2 unless it is obviously unnecessary or
3 impractical, e.g., example, the elderly,
4 young, juveniles, amputees, crippled, injured
5 or other applicable suspects. Officers must
6 take reasonable precautions to protect
7 arrestees from injury caused by handcuffs or
8 other restraining devices.

9 Do you see that?

10 A. I do.

11 Q. These reasonable precautions to
12 protect the arrestees, what does that entail?

13 A. Can you clarify that for me, what
14 you're asking?

15 Q. The policy requires these officers
16 to take reasonable precautions to protect the
17 arrestees from injuries caused by the
18 handcuffs. So based on the circumstances as
19 we see with Mr. Jordan, what were the
20 reasonable precautions that the officers
21 actually did take to protect him from injury
22 from the handcuffs?

23 A. From Mr. Jordan?

24 Q. Right. In Mr. Jordan's case, in
25 that scenario.

1 A. Well, the handcuffs were applied
2 correctly, and then they were double-locked so
3 that they wouldn't tighten up.

4 Q. Okay. Any other precautions that
5 they took to prevent injury?

6 A. I think that would have been
7 sufficient.

8 Q. The next sentence says:
9 Furthermore, officers are reminded that their
10 response to resistance should be adjusted
11 accordingly after the arrestee has been
12 subdued and/or handcuffed.

13 So my question would be did these
14 officers adjust their response to Jason
15 Jordan's resistance accordingly after he was
16 handcuffed?

17 A. Yes. I mean, his demeanor didn't
18 change.

19 Q. At any point -- it's your testimony
20 that the City's position is that his demeanor
21 never changed?

22 A. He was disorderly and resistive
23 throughout the process.

24 Q. Rendering aid, that's that next
25 page, page 6 at the bottom. Under rendering

1 aid, it says: In incidents where an officer's
2 response measures result in the injury or
3 death of a suspect, the officer shall, in the
4 order most appropriate for the situation,
5 Number 1 is render first aid, and Number 2 is
6 call for medical assistance.

7 Of course now -- and I don't mean to
8 ask this in hindsight because we understand
9 Jason Jordan was injured now, but at any
10 point, did they inquire as to his injuries,
11 and at any point, did they respond by
12 rendering first aid or call for medical
13 assistance?

14 MS. STEEL: I object to the form of
15 that question. You know, you haven't
16 established with this witness that the
17 officers knew he was injured.

18 MR. BELLINDER: That's what I'm
19 asking right -- that's literally the question
20 I just asked, was whether or not they knew or
21 that they asked whether he was injured.

22 MS. STEEL: Okay. Thank you.

23 MR. GILL: Let me join in that
24 objection and make one to the extent of the
25 form of that question on ambiguity. I don't

1 know that there's been any proof that his
2 alleged wrist surgeries are related to this
3 incident.

4 MR. BELLINDER: Do you want to talk
5 to the doctor or the nurse prac. or anybody in
6 there? I mean, they're gonna say -- I think
7 it's in the medical records, too, so --

8 MR. GILL: Anyway, that's my
9 objection. Go ahead.

10 MR. BELLINDER:

11 Q. Go ahead.

12 A. Okay. Well, at this point, I still
13 -- and I don't believe the officers have any
14 evidence that he was injured or that he was in
15 pain. He was alert. He never told them he
16 was in pain. He never told them he was
17 injured.

18 Q. And his testimony or other
19 witnesses' testimony that he was saying that,
20 that would be disputed by these officers and
21 by the City?

22 A. Yes.

23 MS. STEEL: Object to the form.

24 MR. BELLINDER:

25 Q. At no point did the City render

1 first aid to Mr. Jordan or call for medical
2 assistance for Mr. Jordan; is that right?

3 A. That's correct.

4 Q. And the reason being is because they
5 didn't believe that he was hurt?

6 A. There was no indications.

7 Q. No indication that he was injured?

8 A. That he was injured or that he was
9 in pain.

10 Q. Who is Sergeant Lessner?

11 A. Sergeant Lessner would have been one
12 of the shift supervisors that evening.

13 Q. Would he have been on the scene that
14 night?

15 A. He was on the scene -- I don't know
16 if you're calling the whole casino the scene.

17 Q. Was he at the casino that night?

18 A. Yes.

19 Q. Why would he have been there? Do we
20 know?

21 A. Oh, I'm sure he was handling -- he
22 was handling other -- it was -- you have to
23 keep in mind, there was a lot going on at the
24 casino at that time. It wasn't just this
25 incident.

1 Q. What else was going on that night?
2 Do you remember?

3 A. Yeah. They were trying -- they were
4 attempting -- there had been an incident I
5 think earlier than that, and they were also
6 attempting to shut down the club, from my
7 understanding. So you would have had an awful
8 lot of people roaming around.

9 Q. And so do we have any details about
10 the earlier incident?

11 A. I do not -- I'm not prepared for
12 that now.

13 Q. But that would have been why
14 Sergeant Lessner was there because we
15 mentioned --

16 A. I don't think you can be that
17 specific because Sergeant Lessner would have
18 come to the casino along with the other
19 officers.

20 Q. Franevich, Hilliard and Hamilton
21 would have come to the casino directly after
22 being called as a result of the Jordan
23 incident --

24 A. That's right.

25 Q. -- is that right?

1 And so other officers who would've
2 possibly been on the scene, they may have been
3 there for -- it's common for them to be there,
4 not an uncommon thing for other officers to
5 already be on the scene, like we said, there's
6 a lot going on?

7 MS. STEEL: Object to the form.

8 MR. BELLINDER:

9 Q. Go ahead.

10 A. It's certainly common for
11 supervisors to respond to the scene.

12 Q. Each officer would have done a
13 narrative or a written report as a result from
14 what they saw?

15 A. That's correct.

16 MR. BELLINDER: Bear with me one
17 minute.

18 - - -

19 (Off the record.)

20 MR. BELLINDER:

21 Q. There were charges filed against Mr.
22 Jordan as a result of this?

23 A. Yes.

24 Q. Do we know what happened with those
25 charges?

1 A. It's my understanding that the
2 military took the charges.

3 Q. The military has the authority to
4 take jurisdiction over certain things
5 involving military personnel, is that your --

6 A. Not so much authority as it is
7 basically a -- kind of an agreement between
8 us. We would prefer them to take care of
9 military people.

10 Q. And Mrs. Jordan, was there a charge
11 filed against her?

12 A. Public intoxication.

13 Q. Do we know whatever happened with
14 that?

15 A. I think it was expunged. I really
16 don't -- I couldn't tell you if she pled or
17 what.

18 Q. Right. Gotcha.

19 Was there an investigation into
20 these -- the City's response to these
21 incidents?

22 A. Other than the investigation that
23 was done by the officers that night?

24 Q. Or an investigation into the City's
25 response to the actions of the officers?

1 A. An internal investigation was done.

2 MS. STEEL: And, again, I'm
3 preserving my objection.

4 MR. BELLINDER:

5 Q. What can you tell us about the
6 internal investigation?

7 A. Well, the internal investigation
8 initiated I think the following Monday, which
9 would have been the first workday. I asked at
10 that time Lieutenant Jim Adamo, who is now
11 Captain Jim Adamo, who is our internal
12 investigator, Internal Affairs investigator --

13 Q. How do you spell his name?

14 A. A-D-A-M-O.

15 Q. Go ahead.

16 A. I had asked him to initiate an
17 Internal Affairs investigation to see if there
18 was any wrongdoing by our officers.

19 Q. Is that a standard practice for an
20 investigation like that to be initiated?

21 A. Pretty standard for me.

22 Q. Okay. What would have been the --
23 what would have been the -- what was your
24 thought process or why was an investigation
25 necessary as to this evening?

1 A. Well, I probably initiate more
2 internal investigations than most do, but it
3 doesn't take much for me. I can get a phone
4 call. Someone can tell me over the phone that
5 one of my officers was driving too fast or
6 that one of them had used foul language.
7 Something like that I would usually go to the
8 shift level. I would have their supervisor
9 investigate it first, get with them and let's
10 just determine if this happened or not.
11 Anything a little more in depth than that I
12 would go to Internal Affairs and ask them to
13 look into it.

14 Q. Do you remember what specifically it
15 was that caused you to initiate this?

16 A. I had received an e-mail, and I'd
17 say -- it wasn't anonymous. I don't remember
18 the name, but it wasn't an anonymous e-mail,
19 but it was an e-mail from someone who was at
20 the casino.

21 Q. And what did that e-mail say?

22 A. Well, it was certainly very negative
23 towards the police department and the officers
24 that were there. I don't remember the exact
25 content of it, but it basically said that the

1 officers had dragged a guy out of the casino,
2 and that was pretty well it. It made
3 reference to that, and it made reference to
4 the incident that took place outside, also.

5 It was a little disconcerting to me
6 because there was -- and as you know, there
7 was some video, but there was no video of the
8 Jordan incident, and I couldn't understand
9 that. So I wasn't really positive that the
10 writer of the e-mail had the knowledge that he
11 claimed that he had.

12 Q. No video of the Jordan incident at
13 that point?

14 A. Yeah. I don't know why there
15 wouldn't have been, but...

16 Q. Did you request the surveillance
17 video from --

18 A. Yes.

19 Q. -- the casino at that point?

20 A. The video I'm talking about is like
21 a YouTube video of --

22 Q. Right. Nobody with a cell phone
23 that was there captured the Jordan incident?

24 A. I didn't understand that.

25 Q. Was there I guess what we'd call a

1 call to action in the e-mail? Did the e-mail
2 -- did the drafter request something specific?
3 Were they requesting something to be done, or
4 what was the --

5 A. That wouldn't have mattered to me.
6 I don't remember if they did or not, but that
7 wouldn't have mattered to me either way. I
8 would have made the decision myself to look
9 into the matter.

10 Q. Do you still have this e-mail
11 somewhere?

12 A. I'm sure. I'm sure we do.

13 Q. If it's all right, can you find it
14 and maybe print it in some type of format and
15 just give it to your lawyer?

16 A. Yes.

17 Q. And you said you remember -- was
18 there a specific sender on that e-mail, like
19 an --

20 A. There was.

21 Q. -- address or a name or --

22 A. Yes, but I don't remember who -- I
23 wasn't familiar with the person.

24 Q. Okay. What was the general result
25 of the investigation? Do you recall that? Do

1 you recall what came of it?

2 MS. STEEL: Same objection, and
3 it's confined -- of course what he's here
4 today to testify about is confined to Jordan
5 and Soukup.

6 MR. BELLINDER:

7 Q. Go ahead.

8 A. Yeah. There was no wrongdoing by
9 the officers in Jordan, Soukup or Ms. Jordan.

10 Q. And so the investigation revealed
11 there was no wrongdoing by Soukup, by Chris
12 Soukup?

13 A. No. There was no wrongdoing by the
14 officers related to --

15 Q. Related to. Okay. Gotcha.

16 Tell me about a citizen's arrest.
17 What is a citizen's arrest? Let me just ask
18 that. What is a citizen's arrest?

19 A. Well, the citizen has a right to
20 place someone under arrest. You would think
21 it would be a lot of detail to it, but there's
22 not. It's simply them placing someone under
23 arrest, telling them that they're under
24 arrest.

25 Q. And in what circumstances is a

1 citizen allowed to arrest someone?

2 A. A citizen can pretty well arrest
3 someone when they want to. That's the right
4 that they have.

5 Q. Okay. Now, as a citizen, I can't
6 arrest someone for something they didn't do,
7 correct?

8 A. You can tell them that you're
9 placing them under citizen's arrest.

10 Q. But they have a right to resist
11 that, correct?

12 A. I would think that they would have a
13 right to resist it. I think we would both
14 resist it if we hadn't done something.

15 Q. And an individual has a right to
16 resist an unlawful arrest even when being
17 arrested by a police department; is that
18 right?

19 MS. STEEL: Object to the question.
20 I think we're going outside the scope of the
21 30(b)(6).

22 MR. STEWART: Calls for a legal
23 conclusion, also.

24 MR. BELLINDER:

25 Q. You're the law, right? You're the

1 chief of police. Can you tell me about
2 whether or not a citizen can resist a
3 citizen's arrest?

4 MS. STEEL: Same objection. And,
5 again, I don't think he has to testify about
6 things outside the scope of the notice. If he
7 does, that is certainly not the answer of the
8 City of Biloxi.

9 MR. BELLINDER:

10 Q. Is it your understanding that Mr.
11 Strong made a citizen's arrest of Chris Soukup
12 that evening?

13 A. Yes.

14 Q. Okay. In what circumstances is a
15 citizen allowed to make a citizen's arrest?
16 You said any. They can just make an arrest?

17 A. No, I didn't say they could make an
18 arrest.

19 MS. STEEL: Same objection.

20 MR. BELLINDER:

21 Q. Clarify it for me.

22 A. What I said was they can advise
23 anyone that they're under citizen's arrest.

24 Q. What happens at that point? Is that
25 person under arrest?

1 A. Not necessarily, no. Usually an
2 officer is called. When the officer gets
3 there, he tries to defuse a situation like
4 that and determine if there is -- if these
5 people are really actually warranted in their
6 arrest, and if they're not, they still have a
7 right, and what we usually tell them at that
8 point is that you're gonna need to go down,
9 file an affidavit and let's let a judge review
10 that.

11 It's not an officer's job to make
12 that determination there. If he can defuse
13 it, he can defuse it. And we're certainly not
14 going to place someone under citizen's arrest
15 if we don't believe it's warranted.

16 Q. What is the police department's
17 stance on a citizen's arrest? Is there a
18 rule? Is there a policy on that?

19 A. Well, the policy -- I'm not sure.
20 You're very vague. The policy would be that
21 if you place them under citizen's arrest, then
22 the officer gets there -- which most people --
23 let me clarify. Most people don't place
24 someone under citizen's arrest until the
25 police are there. That's usually when they

1 place them under citizen's arrest. They'll
2 call because of a disturbance. When we get
3 there, then they'll place them under citizen's
4 arrest. We usually advise them -- or we
5 always advise them that you're gonna need to
6 tell them that they're under citizen's arrest
7 and tell them what they're under citizen's
8 arrest for.

9 Q. Are you aware of whether or not that
10 was done in the case of Mr. Soukup?

11 A. Well, I wasn't there, but I can only
12 assume that that was done.

13 Q. What would that assumption be based
14 on?

15 A. Based on policy.

16 Q. Whose policy?

17 A. Our policy.

18 Q. But I guess my question would be an
19 officer or the police department wouldn't make
20 a citizen's arrest, they'd make an arrest
21 because they're the officers of the City of
22 Biloxi, they would arrest someone on behalf of
23 the City?

24 A. Well, at that point, we're actually
25 more of a transport. If we're gonna tell the

1 affiant that, yes, you know, we believe that
2 this person is -- yes, you can arrest them for
3 a citizen's arrest, you're gonna need to come
4 to the police department and sign the
5 affidavit yourself.

6 Q. And so in order to file an affidavit
7 against someone, citizen's arrest or
8 otherwise, the affiant would need to have
9 witnessed the crime; is that right?

10 MR. STEWART: Object to all the
11 testimony about false arrest because it's not
12 relevant to any claims against Hard Rock
13 because all false arrest claims have been
14 dismissed, just for the record.

15 MS. STEEL: Object to the form.
16 And, also, object -- this is way far outside
17 the 30(b)(6) notice, and it's calling for
18 legal conclusions on this officer's part.

19 MR. BELLINDER: And for the record,
20 this is the law that we're talking to, not a
21 civilian. We're talking to the chief of
22 police, so I think legal conclusions would be
23 within the scope of his personal knowledge.
24 That's his job title but --

25 MS. STEEL: I don't know that they

1 are. He follows the law --

2 MR. BELLINDER: Tell me what --

3 MS. STEEL: Excuse me. He follows
4 the law --

5 MR. BELLINDER: He enforces the law.

6 MS. STEEL: -- and enforces the law,
7 but he is not the law, and he does not
8 interpret things. He follows what courts say
9 about interpretation, so --

10 MR. BELLINDER: And that's what I'm
11 telling -- that's what I'm asking for.

12 MS. STEEL: If it gets -- I mean, I
13 don't know that he is prepared to answer this
14 question.

15 MR. BELLINDER:

16 Q. Are you?

17 A. Ask me the question, if you don't
18 mind.

19 Q. Okay. Tell me, what is your
20 understanding of an affiant filing a charge
21 against an individual? Are they allowed to
22 file that charge when they didn't witness the
23 crime?

24 MS. STEEL: Again, it's a legal
25 conclusion.

1 MR. BELLINDER: I understand.

2 MR. BELLINDER:

3 Q. Do you understand that question?

4 A. I --

5 MS. STEEL: If you do.

6 A. I understand it. I understand it.

7 MR. BELLINDER:

8 Q. Go ahead and tell me.

9 A. We would allow them to sign the
10 affidavit. Again, that would be up to the
11 judge to determine.

12 Q. Okay. So you would allow them to
13 sign an affidavit against someone that they
14 didn't witness a crime, but then at that
15 point, it would be turned over to the judge as
16 far as what happened?

17 A. It would be up to them to present
18 their evidence.

19 Q. Have you seen the affidavit filed by
20 Mr. Strong?

21 MR. STEWART: I'll just make a
22 continuing objection to the relevance in this
23 circumstance where there is no false arrest
24 claim against my client.

25 MR. BELLINDER:

1 Q. Have you seen the affidavit filed by
2 Mr. Strong?

3 A. Yes, I have.

4 Q. The substance of it, have you seen
5 it before?

6 A. Yes.

7 Q. And you're aware in his affidavit
8 Mr. Strong references Mr. Jordan being
9 unconscious, laying face down on the floor?
10 Have you seen that?

11 MS. STEEL: Just a second. He needs
12 to see the affidavit. That is not an
13 affidavit. That's a statement. The
14 affidavit -- here's the affidavit.

15 MR. BELLINDER: Affidavit Withdrawal
16 Penalties Form at the top?

17 MS. STEEL: Yeah. That's not the
18 affidavit, is it?

19 MR. BELLINDER:

20 Q. Is that a part of this document?

21 A. No, it's actually not. It's
22 something that --

23 Q. This is separate?

24 A. It is separate.

25 Q. Is this sworn?

1 A. I'm sorry?

2 Q. Is this sworn? Is it something that
3 would've been sworn under oath?

4 MR. GILL: Can you make that an
5 exhibit so we know what we're looking at when
6 we're reading this deposition.

7 MR. BELLINDER: Uh-huh
8 (affirmative), if I can get an extra copy of
9 it.

10 A. I don't think this was anything that
11 was sworn.

12 MR. BELLINDER:

13 Q. Have you seen this before?

14 A. I have.

15 MR. GILL: Can you identify for the
16 record what you're talking about?

17 MR. BELLINDER: The victim's
18 statement signed by Jason Strong, 11/27/11, at
19 the top it reads Affidavit Withdrawal
20 Penalties Form. It is not Bates stamped.

21 MS. STEEL: Here's an extra copy of
22 this.

23 MR. BELLINDER: Let's make that 3.

24 - - -

25 (Exhibit 3 was marked.)

1 (Off the record.)

2 MR. BELLINDER:

3 Q. Have you seen this where -- about
4 halfway down, first paragraph, victim's
5 statement, it says Chris Soukup had punched an
6 unknown white male that was unconscious laying
7 face down on the floor. Do you see that?

8 A. I do.

9 Q. In response to that, did you review
10 this or -- did you take this into
11 consideration when making your decision to
12 bring -- or to initiate the internal
13 investigation?

14 A. No. I initiated the internal
15 investigation before I saw any of this.

16 Q. Does it have --

17 A. I --

18 Q. Go ahead, if you weren't done.

19 A. I'm interrupting you. Go ahead.

20 Q. No, no. I didn't want to start
21 another question if you were still answering.

22 My only other question would be does
23 this have any bearing on whether or not the
24 officers should have called an ambulance or
25 should have inquired as to medical treatment

1 of Mr. Jordan?

2 A. No, not to me. I mean, my police
3 officers deal with this every day, and no
4 disrespect to Mr. Strong, he probably doesn't
5 deal with it that much. And Mr. Strong is not
6 a medical professional. He's not a doctor
7 that I know of. I'm not even sure he's first
8 aid certified.

9 Q. Also not police certified, he's not
10 a certified police officer either?

11 A. No.

12 Q. You would agree with me that
13 handcuffs are not intended to be used to
14 create unnecessary discomfort or abuse,
15 correct?

16 A. Most certainly not.

17 Q. You would agree with me that that
18 statement is true, that they're not to be
19 used --

20 A. That's right. Yes.

21 Q. You'd also agree with me that
22 improperly-applied handcuffs and/or improper
23 manipulation of an individual's wrist and arms
24 may cause serious injury? You would agree
25 with me?

1 A. Yes, I would agree with that.

2 Q. I guess the question would be is --
3 are the police officers not trained to --
4 that's a double negative.

5 How are the police officers trained
6 as it relates to dragging an individual by
7 their shoulders when the individual is
8 handcuffed behind their back? Does that make
9 sense?

10 MS. STEEL: Object to the form and
11 object to relevance.

12 MR. BELLINDER: It's relevant. It
13 happened.

14 MR. BELLINDER:

15 Q. How are they trained as it relates
16 to dragging someone by their shoulders when
17 they're handcuffed behind their back? Are
18 they trained that that's okay, it's not okay?
19 How are they trained in that?

20 A. They're trained to carry people the
21 way that he was carried in the video, if
22 that's what you're asking me. They're trained
23 to carry people --

24 Q. The way Jason Jordan was carried?

25 A. That's right. They're able to lift

1 their arms up, lift their body weight up and
2 carrying them that way, yes.

3 Q. The City of Biloxi officers,
4 specifically these officers in particular, are
5 they trained on the Law Enforcement Code of
6 Ethics?

7 A. Yes.

8 Q. They're trained not to -- not to
9 treat arrestees in a manner that would likely
10 cause injury, correct?

11 A. That's correct.

12 Q. And not to treat them -- an arrestee
13 in a manner that would likely cause
14 humiliation, also?

15 A. That's correct.

16 Q. Bear with me. I'm getting close.

17 As a standard with police
18 involvement, the information -- the
19 information that the officers obtained that
20 evening would have been told to them by other
21 people until they arrived, they would not have
22 seen or had no personal knowledge of anything
23 prior to their arrival on the scene?

24 A. That's pretty well the way it works
25 with -- anytime the police are called.

1 Q. Right. They can only see what they
2 see in person, they receive information from
3 other individuals and then respond
4 accordingly?

5 A. That's right.

6 Q. Was there ever an investigation by
7 the police department made into the
8 circumstances of Mr. Soukup's -- or just the
9 actions of Mr. Soukup that evening?

10 A. I'm sorry. Ask me again.

11 Q. Did the police officers ever look
12 into what it was that Mr. Soukup did or did
13 not do that evening?

14 A. No.

15 Q. There's no audio on the video as it
16 relates to Mr. Jordan's entire incident,
17 correct? Have you heard any audio on --

18 A. I heard no audio.

19 Q. Did the officers have any
20 microphones or any audio on them that would've
21 captured some of these conversations that were
22 being had?

23 A. That's possible. That's possible.

24 Q. Can you find that out for us --

25 A. Absolutely I can. Yes.

1 Q. -- just to make sure. I think we've
2 asked for that.

3 A. And if there was audio in the club,
4 it would not have been legible. It would've
5 been --

6 Q. And you naturally as chief of Biloxi
7 wouldn't have access to that. What I'm asking
8 for is some type of a recording device or some
9 audio that would have recorded something maybe
10 on the officer's person that may have recorded
11 some of that.

12 Did the Mississippi Bureau of
13 Investigation ever contact you about these
14 incidents?

15 A. No.

16 Q. When I say "you," the police
17 department. It may have been you or someone
18 else.

19 A. Not to my knowledge, no.

20 Q. Did any branch of the military
21 contact the police department about these
22 incidents?

23 A. Yes.

24 Q. Tell us about that.

25 A. Actually, they talked to Assistant

1 Chief McGilvary, and I don't know what the
2 content of the conversation was, but I can
3 only tell you what normally it would be. They
4 would want a copy of any tapes. They'd want a
5 copy of the report. And then the conversation
6 that I had with Assistant Chief McGilvary was
7 are they going to prosecute this case, or do
8 they want us to do it, and he told me they
9 would prefer that it be transferred to their
10 jurisdiction.

11 Q. Spell McGilvary, if you would.

12 A. M-C-G-I-L-V-A-R-Y.

13 Q. Was there any other agency, any
14 other individuals or an agency who contacted
15 the police department about these incidents?

16 A. Not to my knowledge, no.

17 Q. And does the City train its officers
18 on the pressure point control tactics?

19 A. We actually use controlled force.

20 Q. Use controlled force? Tell us --

21 A. PPCT -- all the officers more than
22 likely have been through PPC training when
23 they were in the academy. We're required to
24 do continuing education in the hands-on type
25 combat like that, so we move to controlled

1 force. We use controlled force kind of in
2 conjunction with PPCT. PPCT is more pain
3 compliance. Controlled force is more using
4 the aggressor, if you will -- using their body
5 weight and their movement against them more
6 than it is pain compliance. So officers would
7 be using both.

8 - - -

9 (Off the record.)

10 MR. BELLINDER:

11 Q. When there is an incident, when
12 there is an Internal Affairs investigation,
13 the officers involved, are they drug tested,
14 are they tested for alcohol, are they tested
15 for any substance-type issues that may have
16 been present during the incident?

17 A. The officers?

18 Q. Yeah, the officers themselves.

19 A. Only if there's something that
20 warrants that. There has to be something --
21 you know, I don't think it's legal for us to
22 just drug test them randomly -- randomly we
23 could, but just an individual officer, unless
24 there's something that would indicate that
25 there had been some drug use or --

1 Q. And so what type of things would
2 warrant -- what would it take for something
3 like that to happen?

4 A. For an officer to be --

5 Q. Right.

6 A. We do drug testing quite often, but
7 like I said, it's --

8 MS. STEEL: Object. This is way
9 outside the notice, 30(b)(6).

10 MR. BELLINDER:

11 Q. Go ahead.

12 A. Like I said, we randomly -- the City
13 randomly tests all of its employees. You
14 never know when that kind of test is gonna
15 take place.

16 Let's say there was an automobile
17 accident and the officer involved displayed
18 something that made us believe that he was
19 using something. Then certainly a test would
20 be given then, or if an officer had, you know,
21 major personality swings or changes or
22 something like that.

23 Q. Do you know whether or not any of
24 those type tests were done for the officers
25 involved in these incidents?

1 A. There was no reason for any of that.

2 Q. Were any of these personality swings
3 identified in any of the officers' actions
4 that evening?

5 MS. STEEL: Object to the form.

6 MR. BELLINDER:

7 Q. Go ahead.

8 A. No. There was nothing -- there was
9 nothing there to --

10 Q. Nothing --

11 A. I'm not -- I don't know if I
12 completely understand what you're asking.

13 Q. In other words, none of them became
14 unreasonably angry at any point? None of them
15 had any of those type reactions?

16 A. No. They handle themselves very
17 well through a difficult situation.

18 Q. Were you aware or made aware of any
19 of the language used by the officers against
20 Mr. Jordan or Mrs. Jordan?

21 A. I was not.

22 Q. Has the City talked to any of the
23 other individuals who were there, any of the
24 witnesses as to what took place?

25 A. Like citizens or security guards?

1 Q. Either one.

2 A. Yes.

3 Q. Tell us who exactly it was that the
4 City talked with.

5 A. Well, I know that the Internal
6 Affairs investigator would have talked to each
7 one of the security guards.

8 Q. Talked with each of the security
9 guards?

10 A. Yes.

11 Q. Was the City ever made aware of the
12 substance of those conversations?

13 A. They'd be in the internal
14 investigation, yes.

15 MS. STEEL: I believe the City has
16 provided you with statements.

17 MR. BELLINDER: Yeah. I've got
18 written statements, but I also believe the
19 individuals yesterday denied having spoken
20 with anybody outside of their written
21 statements.

22 A. Well, I mean, I could be wrong, but
23 I --

24 MR. BELLINDER:

25 Q. Right. We can confirm that later

1 on.

2 What about the witnesses, any of the
3 witnesses that saw what took place that night,
4 do you know whether or not the City contacted
5 any of them or spoke with them?

6 A. I do not believe they did, no.
7 Witnesses, I'm not sure who you're talking
8 about.

9 Q. Anybody who would have seen the
10 altercation, anything that took place that led
11 up to the arrest of these individuals.

12 A. It almost sounds like that you have
13 some witnesses that they should have talked
14 to. Is that --

15 Q. Well, yeah. But, I mean, what I'm
16 asking is did the City talk to any of those
17 folks --

18 A. That's what --

19 Q. -- that -- go ahead.

20 A. That's what I'm trying to find out
21 is who -- I mean, who are you --

22 Q. Did they talk to Officer Penick with
23 the Air Force?

24 A. Yes. Penick was spoke to, but
25 probably not during the internal

1 investigation.

2 Q. When would Penick have been spoke
3 to?

4 A. Penick was spoke to with McGilvary.
5 That was part of McGilvary's conversation with
6 the Air Force.

7 Q. Who all did McGilvary speak to?

8 A. That, I can't tell you. I know he's
9 talked to Penick, and he may have talked to
10 the -- he probably would have talked to
11 Pignataro.

12 Q. Anybody else?

13 A. That would have probably been it.
14 Pignataro would have been responsible for the
15 off-duty airmen there.

16 Q. Could you tell us the substance of
17 the conversations with Assistant Chief
18 McGilvary and Pignataro?

19 A. That's when he would have asked
20 about being allowed to prosecute through the
21 Air Force.

22 Q. What about the substance of the
23 alleged crime, the incident itself?

24 A. I'm sure that was discussed.

25 Q. But you don't know the specifics of

1 that?

2 A. No.

3 Q. Same with Penick?

4 A. It would have been the same. Penick
5 would have asked for a -- he did ask for a
6 copy of what we had as far as paperwork and
7 videos.

8 Q. Anybody else that they would have
9 spoken with?

10 A. Not that I know of, no.

11 Q. Do you know whether or not Mr. or
12 Mrs. Jordan had any prior run-ins with the
13 law, any previous arrests or prior criminal
14 background?

15 A. You know, I'm sure I looked at that,
16 but I don't recall if they did or not.

17 Q. Have you been made aware of any
18 injuries and not -- have you been made aware
19 of any injuries of Mr. or Mrs. Jordan or Mr.
20 Soukup, not by the attorney for the City but
21 by any other witness, any other person, any
22 other individual?

23 What I mean is we're not allowed to
24 talk to you about what you talk with your
25 lawyer about. So you and your lawyer may have

1 talked about some injuries that they may have
2 sustained. Outside of what the lawyer has
3 talked with you about, have you been made
4 aware of any of their injuries? Did you --

5 A. No.

6 Q. -- receive any information about
7 their injuries from some other individual?

8 A. No, I did not.

9 Q. Have you talked with representatives
10 from the casino or has the City talked with
11 representatives of the casino at any point
12 subsequent to this outside of what we've
13 already discussed?

14 A. Not to my knowledge.

15 MS. STEEL: And, again, I would
16 object to the extent that your question
17 includes conversations between attorneys.

18 MR. BELLINDER: Of course.

19 MR. BELLINDER:

20 Q. Like we said, I'm not allowed to
21 talk with you -- outside of the attorney for
22 the casino, any conversation between the
23 police department and the casino about this
24 particular incident?

25 A. Not to my knowledge. I mean, we

1 would have probably made a request for the
2 tape, you know, and like I said earlier --

3 Q. We talked about.

4 A. -- the internal investigation, you
5 know, questions probably would have been asked
6 there.

7 MR. BELLINDER: All right. That's
8 all I've got. Thank you so much. I
9 appreciate your time and coming and doing this
10 for us.

11 - - -

12 EXAMINATION

13 BY MR. STEWART:

14 Q. Just on that one point, Chief. I
15 won't ask any other questions. In regard to
16 any discussions with Hard Rock security
17 officers, you mentioned that could have
18 happened, but you also said you could be
19 wrong?

20 A. I could be wrong. To be honest with
21 you, I don't remember how extensive the
22 internal was, and I could have absolutely --
23 he may have relied on their written reports
24 instead of speaking to them personally.

25 Q. Yes, sir.

1 What's been produced were two copies
2 of Hard Rock statements written by Hard Rock
3 employees produced by the City. Other than
4 those, are you aware of any written recorded
5 documentation of interviews with Hard Rock
6 employees?

7 A. I am not.

8 MR. STEWART: Okay. Thank you, sir.
9 That's all I have.

10 - - -

11 EXAMINATION

12 BY MR. GILL:

13 Q. Just a couple of follow-ups, Chief,
14 on the use of stun drive technique. Is that a
15 universal technique used by most law
16 enforcement agencies?

17 A. Oh, yes. Yes.

18 Q. And Biloxi police officers are
19 trained in the use of that technique?

20 A. They are.

21 Q. And that training occurs where?

22 A. Well, initially it occurred -- they
23 usually get training through the academy, and
24 then we -- every two years we recertify.

25 Q. And I take it you personally have

1 gone to that training?

2 A. I have not. I don't intend to. We
3 certainly don't want to give an intermediate
4 weapon to someone who doesn't want to use it.
5 There's several other weapons they can use.
6 And I'm one of those people that -- I have no
7 desire to get --

8 Q. If the officer is issued a Taser, I
9 take it they've been trained in the proper
10 use?

11 A. Oh, absolutely. Yes.

12 Q. And you reviewed the video, correct?

13 A. Yes.

14 Q. You've done your own internal
15 investigation, correct?

16 A. Yes.

17 Q. And as far as Officer Hamilton's use
18 of the stun drive technique, was that
19 appropriate?

20 A. Absolutely appropriate.

21 MR. GILL: That's all I have.

22 - - -

23 EXAMINATION

24 BY MS. STEEL:

25 Q. I have one question to clarify

1 something. You testified -- there was a lot
2 of testimony about an option of using a
3 wheelchair when the officers arrived at the
4 Hard Rock. Do you have -- what is your
5 knowledge as to whether or not the officers
6 knew there was a wheelchair?

7 A. The officers had no knowledge that
8 there was a wheelchair.

9 MS. STEEL: Thank you.

10 - - -

11 (Deposition concluded at 10:51 a.m.)
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CERTIFICATE OF COURT REPORTER

I, Jennifer West Ray, Court Reporter,
and Notary Public in and for the County of Harrison,
State of Mississippi, hereby certify that the
foregoing pages, and including this page, contain a
true and correct transcript of the testimony of the
witness, as taken by me at the time and place
heretofore stated, and later reduced to typewritten
form by computer-aided transcription under my
supervision and to the best of my skill and ability.

I further certify that I placed the
witness under oath to truthfully answer the
questions in this matter under the power vested in
me by the State of Mississippi.

I further certify that I am not in the
employ of or related to any counsel or party in this
matter, and have no interest, monetary or otherwise,
in the final outcome of the proceedings.

Witness my signature this the ____ day
of _____, 2014.

JENNIFER WEST RAY, RPR

My Commission Expires on 4/24/17